

Department of Public Health
and Human Services

Section:
CASE MANAGEMENT

TANF CASH ASSISTANCE

Subject:
Fair Hearing Non-compliance with
FIA/EP or Tribal NEW - Continuation
of Benefits

Supersedes: TANF 702-4 (07/01/07)

References: 45 CFR 261.13 - .15; ARM 37.78.102, .506 and .508; ARM 37.5.307 and .316

GENERAL RULE-- TANF cash assistance may continue, if requested, pending a Fair Hearing decision if the assistance unit is otherwise eligible. All non financial and financial eligibility requirements must be evaluated and met before authorization of benefits.

NOTE: TANF Extended benefit cases are not eligible for continued benefits.

**FIRST SANCTION
FAIR HEARING
REQUEST**

A sanction is considered imposed when a sanction notice (either A740 or A741 First Sanction Decrease or A604 First Sanction Close Over Income) has been sent.

Even if a Fair Hearing and continued benefits are requested, the current Family Assistance Agreement and WoRC Employability Plan (FIA/EP) ends:

1. At the end of the month prior to the sanction penalty month for “work-eligible individuals” who are required to negotiate a FIA/EP during the sanction penalty month (TANF 701-1); or
2. At the end of the sanction penalty month for individuals who are not “work-eligible” individuals (TANF 701-1) and not required to negotiate a FIA/EP during the sanction penalty month.



NOTE: If the sanctioned individual is not a “work-eligible” individual and not required to negotiate a FIA/EP during the sanction penalty month, **they must negotiate a FIA/EP prior to the last day of the penalty month** to avoid case closure. This information is included in the A740 notice.



If the sanctioned individual does not negotiate a new FIA/EP, close the case. No further notice is required.



If the sanctioned individual does negotiate a FIA/EP, the TANF cash assistance remains open and benefits are issued for the next month, provided all other eligibility requirements are met.

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BENEFITS AND
REQUEST FOR
FAIR HEARING
(1ST SANCTION)**

If a sanctioned individual requests a fair hearing on the imposition of a sanction penalty month and requests continued benefits pending a fair hearing, the 'FHP' (Fair Hearing Pending) component code will be used to account for full hours on the FIA/EP during the sanction penalty month in TEAMS to allow continued benefits to be issued. Follow the 'FHP' component process outlined later in this section.



NOTE: Continued benefits may be issued only if **requested** between the date of the TEAMS notice of action and the effective date of the action. The request for continued benefits must be in writing. If continued benefits are issued, send the **A502** "CONT BENEFITS PENDING HEARING" notice to the participant.



In order to receive cash assistance following the receipt of continued benefits during a sanction penalty month, a new FIA/EP must be negotiated. This information is included on the A502 "CONT BENEFITS PENDING HEARING" notice.

**► SECOND AND
SUBSEQUENT
SANCTION FAIR
HEARING REQUEST**

A sanction is considered imposed when a sanction notice (A609) has been sent. Even if a Fair Hearing and continued benefits are requested, the current FIA/EP ends at the end of the month prior to the sanction ineligibility month.

Imposing a second or subsequent sanction and an ineligibility month are not independent actions, they occur at the same time. Participants who wish to request a Fair Hearing for both actions only have to request a fair hearing once to address both concerns.

**► CONTINUED
BENEFITS AND
REQUEST FOR
FAIR HEARING
(2ND OR
SUBSEQUENT
SANCTION)**

If a sanctioned individual requests a fair hearing on the imposition of a second or subsequent sanction and ineligibility period, and requests continued benefits pending a fair hearing, the 'FHP' (Fair Hearing Pending) component code will be used to account for full hours on the FIA/EP during one month of the ineligibility period in TEAMS to allow continued benefits to be issued. Follow the 'FHP' component process outlined later in this section.

NOTE: Continued benefits may be issued only if **requested** between the date of the TEAMS notice of action and the effective date of the action. The request for continued benefits must be in writing. If continued benefits are issued, send the **A502** "Cont Benefits Pending Hearing" notice to the participant.

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- **In order to receive cash assistance following the receipt of continued benefits during a one-month ineligibility period, a new FIA/EP must be negotiated. This information is included on the A502 "CONT BENEFITS PENDING HEARING" notice.**
- **If the household receives one month of continued benefits during a 3 or 6 month ineligibility period, it will count as month '1' in the ineligibility period, however the remaining months of the ineligibility period must be served, prior to being eligible for TANF cash assistance. The household must make application for TANF cash assistance, following the ineligibility period. (TANF 701-3)**
- HEARING
DECISION
RECEIVED
(CONTINUED
BENEFITS ISSUED)**
- The results of the Fair Hearing must be case noted.
- If the Fair Hearing decision is **not in favor of the State**, no action is necessary if continued benefits were issued, because the household already received the benefit and the sanction has been lifted to allow continued benefits to be issued.
- If the Fair Hearing decision is **in favor of the State**, an overpayment must be established for the one-month period of continued benefits. Overpayments due to the receipt of continued benefits will be recouped at \$25 or 25%, whichever is higher. (TANF 1504-1)
- TEAMS will not allow the sanction to be input "retroactively"; however the sanction will count toward the participant. In these situations, the Eligibility Case Manager must enter a TEAMS case note titled "Sanction #XX Fair Hearing Upheld."
- HEARING
DECISION
RECEIVED
(NO CONTINUED
BENEFITS ISSUED)**
- The results of the Fair Hearing must be case noted.
- If the Fair Hearing decision is **not in favor of the State**, the sanction must be lifted (if imposed) and benefits restored for the one month.
- If the Fair Hearing decision is **in favor of the State**, no action is necessary because continued benefits were not issued.
- 'FHP'
COMPONENT
TEAMS PROCESS**
- The 'FHP' Component code is used ONLY if the participant has provided **a written request for a Fair Hearing and continuation of benefits.** This component may only be used for a one-month period in TEAMS.
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1. Enter 'FHP' on **EMPL**. Enter the Start Date as the first of the sanction month. Set the End Date for the last day of the sanction penalty month.

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2. Do not enter anything in the Status Field.
3. Enter the total monthly required participation hours per policy stated in Section 701-2.
4. Enter the Administrative Review/Hearing date, if known, in the free form space below the component.
5. Authorize benefits, if eligible, on EXPD.

NOTE: The participant does not have to sign a FIA/EP with the FHP code or negotiate an employability plan before benefits can be authorized.

If monthly issuance has already taken place, a supplement must be issued on UNAUI. If there is an outstanding overpayment on the case, the supplement will be applied toward the overpayment. Please contact the TANF Policy Specialist for the procedure to make sure the continued benefits are issued in this instance.

6. Document circumstances and action taken in TEAMS case notes (CANO).
7. Set an alert on ETAL for the date of the Administrative Review/Hearing, if known.



NOTE: In order to receive cash assistance following the receipt of continued benefits during a sanction penalty month or a one-month ineligibility period, the sanctioned individual must request to negotiate a FIA/EP prior to the end of the sanction penalty month or one-month ineligibility period to avoid case closure. (See request for continued benefits pending a 1st or 2nd and subsequent sanction above.)

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